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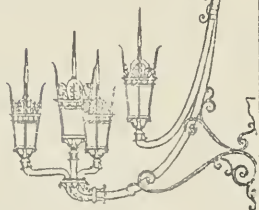
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Studies in Urban Political Economy

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Housing Regulation and Reform in Boston,
1822-1924: Antecedents of Zoning

by Stephen A. Kersten

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Housing Regulation and Reform in Boston,
1822-1924: Antecedents of Zoning

by Stephen A. Kersten

Working Paper #7
October, 1973

This series of working papers presents the preliminary results of an ongoing inquiry into the interrelationships of social class, residence and occupation in the process of economic growth in the Boston metropolitan area during the past century. It is supported by Grant #MH 22407-02 from the National Institute of Mental Health to the Florence Heller Graduate School for Advanced Studies in Social Welfare, Brandeis University and Grant #GS 36880 from the National Science Foundation to Queens College, City University of New York. The principal investigators are Elliott Sclar (Brandeis University) and Matthew Edel (Queens College). Opinions expressed are not necessarily those of the funding organizations. Copies of this and other papers in this series are available from Prof. E. Sclar, Heller School, Brandeis University, Waltham, Massachusetts 02154.

I. Introduction

The one hundred years following Boston's incorporation as a city in 1822 represents the period of substantial urbanization of the Boston metropolitan area. During this time of industrial development and population influx, patterns of land use and settlement were established which remain largely unaltered to this day.

The second decade of the present century is a significant one in the history of Boston and the United States because it signaled the end of a relatively intransigent laissez-faire posture on the part of government regarding the housing market, and the beginning of a new era of government involvement in the planning of the city's growth. In 1924, the Massachusetts Legislature passed Chapter 488, Boston's first comprehensive zoning law. This Act authorized the municipal government to regulate the height, bulk and occupancy of buildings constructed throughout the city, thus ending the era of the free market and the speculator as virtual sole determinants on the distribution and construction of housing in the Boston area. While this act did not provide for government sponsorship of public housing construction which awaited federal initiative, it contributed to the land available for residence by prohibiting alternative uses in specific areas. Residential areas were thus removed from a position of competition with and encroachment by commercial and industrial uses and a measure of stability for the existing housing supply was achieved. On the other hand, some inexpensive forms of housing were limited and the possibility of "snob zoning" raised.

Our concern here will be for the events, ideas, and leadership which preceded this development. In particular, we will focus on the significant areas of governmental involvement in housing prior to 1924. The areas of fire prevention and health standards emerge as the most fundamental government concerns, since they carried with them the potential hazards to the whole community of fires and epidemics. Beginning with the early fire prevention laws and then turning to the history of health laws,

we shall be seeking to account for the circumstances and the individuals and groups which set the precedents for the 1924 Boston Zoning Law.

II. Building Regulation Before 1868: Fire Prevention

The first area of government involvement in the housing conditions of Boston was in the regulation of wooden buildings. As early as 1692 the General Court (the legislative body of the province) decreed that all buildings greater than 7 feet in height in the town of Boston were to be built of stone or brick, with slate-tiled roofs.¹ The effects of such regulations, however, were soon found to cause what was considered undue hardship on building owners. In 1699 the law was amended to give the Governor and the Council discretionary powers to allow the erection of any wooden buildings they judged to be safe; because enforcement of the 1692 law would cause "over great severity," violators would be fined up to 50~~£~~ per offense instead of being ordered to demolish the building or go to jail.² Presumably, wooden structures over 7' high continued to be built under the new law, until 1760 when they were again prohibited following a serious fire. The 1760 law, however, lowered the fine from 50 per offense to 20~~£~~ per year; thus wooden buildings again were tolerated providing a yearly fine was paid.

These early attempts at building regulations are interesting because they indicate some of the factors which were to continue to operate during the more recent period of Boston's history which is our primary concern. In addition to the concern for fire prevention was the consideration of the building cost and the supply of buildings in the town. From the earliest records of Boston's history it can be inferred that wood was the more economical building material and that fire safety regulations caused an increase in building costs. Thus the dilemma of providing safe housing at low cost appears: the safer the building, the more it costs, therefore,

increasingly stringent building regulations were to discourage low cost housing in Boston.

By the time of the town's incorporation as a city, in 1822, building regulations passed by the General Court specifically for it had advanced to the point of requiring all structures over 30 feet from the top of the roof to the ground to be of stone or brick. The 1822 act, titled "An act to provide for the erection of two-story wooden buildings in the city of Boston," permitted wooden dwellings to be built if no more than 30' high and 40' x 25' in area. Roofs were to be of slate and 3' brick partition walls were to intervene between wooden buildings less than 10' apart. With the exception of South Boston, which enjoyed special status, a brick partition wall was required between all wooden structures, regardless of intervening spaces, every 50 feet.

The reason for the passage of this act permitting certain wooden dwellings must again be inferred, since explicit data was not uncovered. We may assume that the laws passed prior to 1822 were somewhat successful in curbing the construction of wooden buildings, at least for dwelling purposes. A 1796 act required the largest wall of all dwellings to be of stone and, further, that all buildings greater than 14' high and 24' wide were to be built of stone.³ Two years later all public buildings, regardless of height, were to be of stone construction; all dwellings over 14' high were to have the largest wall constructed of stone and the roof tiled. In 1803 the law, perhaps growing cumbersome in its specification, was simplified to require stone external walls and tile roofs of all buildings constructed over 10' high. Fines for violation of this most comprehensive and restrictive law to date were set at \$50 to \$500 per violation. An additional \$50 annual fine was included, presumably for owners who received a rate of return on their building investment high enough to warrant defiance of the regulation. Evidence for the existence of such a situation regarding scofflaws, unfortunately, has not survived so one may only

speculate. The fact that the law provided that half the fines collected be used for the support of the poor in Boston and one half for the firewards, would seem to indicate, however, that code violations may even have been welcomed in some quarters as a source of revenue.⁴ In any case, the fines carried with the 1322 law (\$50 to \$500 per offense per year) were to be divided equally between the "complainant" and the city.

In 1304 a 9 acre area of reclaimed land known as South Boston was annexed to Boston and opened as a housing speculation.⁵ The owners of this land agreed to what Herlihy describes as one of the first "set-back" principles of land zoning, promising to build homes at least 10' from the street line.⁶ Probably as a part of this agreement, in 1311 South Boston was exempted from the restrictions imposed on Boston by the 1303 buildings act.⁷

Originally limited to a 5-year period, the exemption was continued for another 5 year period in 1318. In 1321 the Legislature placed a limit of 30' in height, 40' wide on wooden buildings in South Boston, and further required a minimum separation of 50' between buildings.⁸

Despite further restrictions on the rest of Boston buildings in 1327, South Boston apparently retained its privileged status until 1350 when the Boston City Council was given discretionary power over the construction with wood in this area. East Boston was promoted to an equally exempt position regarding construction with wood in 1335 and was included in the 1350 statute granting city council discretion over wood buildings.⁹

Development of the building laws of Boston Proper reflected a similar desire to make allowance for cheaper construction with wood. The 1322 limit of 30' on the height of wooden buildings was a relaxation of the law of the previous year, which had established a height limit of 16' for wooden structures.¹⁰ This in turn was an extension over the 1303 height limit of 10', in force until 1321. As the law developed,

simple height restrictions were replaced by stipulations regarding the area covered, the use of brick partition walls, fireproof coverings, etc., all designed to minimize the fire risk but also reflecting concern over building costs.

The nature of the relationship between the city and state governments during this period is difficult to determine. Some evidence exists which indicates that city officials were more willing to tighten restrictions on wood buildings in the city than was the General Court. In 1839, the city received a petition for the repeal of the 1835 building law. The council agreed that the previous (1827) statute was preferable to the existing law, but recommended a new more restrictive act which would have lowered the maximum wall height from 20' to 18', changed the maximum area of the building from 25' to 50' to 18' by 36', and further, would have required a 4' minimum open space between buildings.¹¹ This proposal, however, did not succeed in the General Court, and the more liberal building regulations prevailed.

"Tenements" were first mentioned in a legislative statute concerning the protection of Boston from fire in 1827.¹² Chapter 144 required all public and commercial buildings to be constructed by stone or brick with fireproof roofs. All other buildings, including tenements, were to be built thereafter of stone or brick if more than 22' high with 12' walls or 16' walls if greater than 40' by 60' in area. Wooden sheds were to be separated from other buildings by a 3" brick wall. Rather curiously, the law also stated that 30' high, 2-story wooden buildings were permissible for dwelling purposes only. Such buildings were restricted as in chapter 16, 1822, however, so that the "post" or vertical support, corresponding roughly to the wall, was limited to 18' high. This meant that only the roof partitions of these wooden structures would be higher than the 22' limit imposed on all other wooden buildings.¹³

In 1835, the "act for further regulation of wooden buildings in the city of Boston" imposed a 32' maximum on all wood buildings, repealing the restriction on

commercial buildings passed in 1827.¹⁴ Thereafter wood buildings over 16' tall were permissible if no more than 25' by 50' in area, walls no more than 20' high and separated by a brick wall from adjoining buildings. Fines remained at \$50-500 per year for offenders, to be used for the city of Boston. The law provided for the possible exemption of the "neck lands" of the city (the Dorchester area) at the Mayor or Alderman's discretion. This proviso was undoubtedly aimed at allowing needed housing construction in this natural area of expansion. The vast land-fill operations which were to characterize the city's growth did not begin until the second half of the century; thus the "neck lands," comprising the city's single connection to the mainland, received special attention as the peninsula became more crowded. The law remained in effect without substantive modification until 1868.

Prior to the great immigration of 1845-1850, the laws regulating Boston's buildings appear to have had fire protection as their primary concern. Restrictions on the height of and area of wooden structures, the requirement of brick walls between buildings close together fireproof roof coverings -- these elements of the law were adjusted and manipulated periodically, but little qualitative change occurs in the various acts "to protect the City of Boston from damage by fire" until 1868. Chapter 281 of that year contained a separate section of the building law pertaining specifically to tenement houses.¹⁵ Unlike previous laws regulating building construction in Boston, this statute included ventilation requirements, as well as drainage, sanitation, and population density standards. Inspection of buildings by the city Board of Health is also provided. In short, by 1868 the building laws of Boston were health-oriented, because by this time a threat to the safety of the city perhaps more dreaded than fire had dramatically presented itself. This threat was disease, and though it was most acute in tenement house areas where the city's new immigrant population lived, citizens soon realized the danger of the contagion reaching all segments of the community rich and poor. Treatment was

difficult as little was known about the nature of cholera. Its relation to sanitary practices was soon understood, giving impetus to a broadly based disease prevention campaign. Before continuing our discussion of the laws regulating the construction of dwellings in Boston, therefore, it is necessary to review briefly history of the city's public health movement.

III. Housing and Immigration: Health Laws Before 1868

Boston was first authorized to establish a Board of Health in 1816.¹⁶ Its duty was to destroy, remove, or prevent "all causes of sickness, nuisances and sources of filth that may be injurious to the health of the town of Boston," within the town limits or in the harbor.¹⁷

As Handlin has noted, "nuisance" laws represent some of the earliest instances of the developing state role in otherwise private matters.¹⁸ Originally referring to "any offensive action by one person that might cause damage to another," the early "nuisance laws" established the needed precedents for the gradual specification of minimal safety requirements by the state. With the increasingly complicated nature of the social organization came a more closely defined and sophisticated assertion of the government's regulatory powers. Thus, statutes as well as ordinances passed for the remainder of the first half of the century were primarily related to the interpretation of "nuisances" and the power of the Board of Health to order them rectified or removed.

An 1834 city ordinance established the right of the Mayor or Aldermen, acting as the Board of Health to insure that all tenement houses had adequate drainage, privies and sewage vaults "of sufficient capacity in projection to the number of inhabitants." ¹⁹ Should such a tenement be found lacking such facilities, or occupied by a number of persons "so great as to be the cause of nuisances and sickness, and to the source of filth," then the Mayor and Alderman were empowered to evict some or

all of the occupants. Cellars were also placed within the domain of the Mayor and Aldermen's regulatory power: nuisances would be corrected at the expense of the "owners or occupants."¹⁹

Although the authority to regulate the sanitary condition of the city rested with the Mayor and Aldermen in this period, responsibility for actual inspection and enforcement of the laws belonged to the Commissioner of Health and the City Marshal. A June 24, 1924 ordinance instructed the Marshal, who supervised the internal police function of the City, to inspect all houses and insure that sufficient vaults and privies were available at the owner's expense if necessary.²¹

In 1826 an ordinance authorized the City Council to appoint 5 physicians annually to advise the Mayor and Aldermen on the health of the city's population.²² Until 1873 the Mayor and the Aldermen retained absolute authority over the enforcement of the city's health laws. In that year, the Board of Health was established as an independent body not subject to the whim of the Mayor or Aldermen. This reform occurred after more than 20 years of public criticism of the Board of Health's performance.²³

Public health did not become a serious problem in Boston until the Irish immigration of the late 1840's. Before this great chapter in the city's history began, as Handlin has pointed out, "poverty and pauperism" and hence, "slums" as we conceive of them today, simply did not exist in Boston.²⁴ Ample accounts of the Irish immigration into Boston are available elsewhere; therefore, we shall not be concerned with describing it here in any depth. Suffice it to say that in the period 1845-1855, Boston underwent a "population explosion" due to the influx of Irish refugees from political and economic hardship.²⁵ The city's population increased from 43,293 in 1820 to 138,783 in 1850. The 1820 city population, almost entirely of

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native American origin, was 45% foreign born by 1850.²⁶ In the 1845-1855 decade, Handlin estimates, the population increased by "more than a third," resulting in the conversion of "a densely-settled into an overcrowded city."²⁷ Between 1850 and 1855 alone, Bugbee reports, the foreign born population increased by 22,000.²⁸

The impact of this population influx was intensified because of the poverty of the newcomers most of them Irish. Handlin summarizes the development succinctly.

"By their immobility the Irish crammed the city, recasting its boundaries and disfiguring its physical appearance; by their poverty they introduced new problems and disease, vice, and crime, with which neither they nor the community were ready to cope."²⁹

Public concern was soon aroused by the declining sanitary conditions of the immigrant sectors of the city. These engendered a health menace that threatened the entire population, rich and poor alike.

A. The Tenement House Reform Movement: 1846

The year 1846 may be cited as the beginning of the "tenement house reform movement" in Boston. Culver³⁰ begins his account here, noting the publication in this year of the "Report of the Committee on the Expediency of Providing Better Tenements for the Poor." The membership of this committee is rather blithely described by Handlin as: "public spirited citizens disturbed by the possibilities of a shortage in housing."³¹ In fact, what the committee presented, in Culver's words, was "a severe indictment of housing conditions in Boston." The criticisms were principally aimed at health hazards. The report charged that a third of the city's families lived crowded together with three, four, five or more families "in small houses generally not built for that purpose."³² Boston's overcrowding exceeded that of London, and the death rate for Boston's poor was higher than that for the lowest class of English laborers. Also deplored was the gradual polarization of the class structure not just in Boston but in American society as a whole.³³

As a remedy for the deteriorating situation of the city's poor the committee called for what Culver described as "enlightened capitalism, combining philanthropy and dividends" to supply needed housing. The committee's suggestion represented, as Culver points out, one of the first appearances of the "model tenement house" idea as a solution to the housing built by "benevolent capitalists" was the preferred solution. Unfortunately, like moderately priced housing itself, such unambitious investors were in short supply. Profits were being made in more intensive land-uses, and maximum profit was the name of the game. For this reason, as Lemuel Shattuck reported in 1850, the growing housing shortage waxed even more acute as dwellings were converted into warehouses and stores.³⁴

Between 1850 and 1868 virtually no new action was taken by either the city government or the State Legislature to insure adequate living conditions in Boston. To be sure, following a severe cholera epidemic in 1849, which caused 1,000 deaths, mostly among the poor,³⁵ the General Court did authorize the Board of Health to remove occupants of dwellings considered unfit for dwelling or a nuisance to the public.³⁶ But this act did little more than reinforce the Board's power to quarantine the sick when necessary, thus protecting the rest of the city from the spread of disease. Also in this year a city ordinance gave the Board of Health authority to order the installation of privies and drains "proportionate to the number of inhabitants," and to order the removal of tenants from tenements adjudged overcrowded or a nuisance.³⁷ Depending on the Board of Health's definition of "nuisance," a great number or very few unsanitary and unsafe tenements might have been cited under the statutes and ordinances of the period. But the fact remained that there were not enough places for people to sleep without overcrowding, and little if any effort was being made to provide them. In 1849 the Committee on Internal Health on the Asiatic Cholera, although critical of the health conditions tolerated in the

city, nevertheless recognized the necessity of cellar occupancy because of the shortage. This lack of any alternative to damp, crowded cellars was apparently overlooked by the "Report and Tabular Statement of the Censors" of 1850. According to Culver, the Report noted "an unusually small number of unoccupied houses" while it recommended that the use of cellars as dwellings be outlawed.³³

B. The Debate Over Housing Reform

Boston during the two decades which preceded the 1868 Buildings Act was the scene of intense debate over the proper role of government in the widening housing crisis of the laboring classes. Articles drawing attention to the city's growing problems appeared in the newspapers and magazines of the day. In 1850, for example, the Boston Herald ran an editorial titled "the Laboring Classes," which analyzed the depressing effect on laborers' wages of increasing competition from foreign laborers for menial jobs. The natural outcome of decreasing wages, the editorial predicted, will be an increased crime rate and "squalid poverty." The time will soon come, it is concluded, when "more wise and liberal measures will have to be devised for the poor."³⁹

Another article appeared in the April, 1852 North American Review charging that the poor cannot be expected simply to help themselves; rather the solution to poverty "must come from the action of the public authorities, and from the efforts of benevolent societies and private individuals."⁴⁰ Needed improvements suggested included ventilation, sanitation, and less crowding of dwellings. Government should not hesitate to interfere with private property rights, the article continues, when the landlord of a slum is abusing his 'rights' in order to rob the poor community. It is the responsibility of public authorities not to build housing for the poor, but to insure, through regulation and inspection of dwellings, that homes are 'compatible

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862.

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with health, decency and morality."⁴¹ In the private sphere, able citizens should form "associations for the improvement of homes of the poor" whose function would be to publicize conditions, erect model buildings, and demand decent buildings standards from private developers. Care must be taken not to "diminish the self-reliance and self-respect of those receiving...aid," nor to arouse opposition from conservatives by excessive charity. Lord Ashley's charitable efforts along these lines in London are cited as exemplary.⁴²

Implicit in much of the "conservative" response of Bostonians--notably the native poor--to the onslaught of foreigners was nativism. Writes Warner on this subject:

"The native poor of Boston, in competition with immigrants for jobs and sharing with them the penalties of the maldistribution of income, often matched the newcomers in clannishness and frequently confronted them with raw hostility. Their nationalism produced the special political movement known as nativism. From 1854 to 1857, nativists were in control of the state government, and anti-foreign, anti-Catholic sentiment remained an active ingredient in state and city politics for the rest of the century."⁴³

In 1844 the American Republican Party, a nativist organization with nation-wide affiliations, extended its operations to Boston.⁴⁴ A year later the local Native-American Party's candidate for Mayor defeated both the Whig and the Democratic candidates.⁴⁵ In 1846 the State Legislative Committee on the Repeal of Support of State Paupers recommended the repeal of state support and a tightening of alien immigration restrictions. The Committee described its proposed bill as one which would "prevent Massachusetts from standing longer alone in offering a bounty on vagrancy and indolence." The Bill did not, however, secure passage.⁴⁶

In 1850, Knights reports, the City Council redistricted ward boundaries on the basis of the number of previous voters, not the number of present inhabitants, thus gerrymandering the Irish vote.⁴⁷ The influence of nativism, however, did not prevent most Bostonians from recognizing the need for housing reform.

In 1854, Boston suffered another Cholera epidemic, again most severe in slum areas. Enforcement of existing sanitary codes, such as there were in the 1840's and '50's was frustrated by the critical shortage of any shelter at all, regardless of quality. Woods describes the problem encountered by health officials of the period:

"Keith's Alley and the Fort Hill district were the centers of its greatest virulence. An attempt was made by the Board of Health, namely, the Mayor and Alderman...to remedy matters by vacating the most obnoxious buildings. The tenants did not choose to be ejected, and there were many contests between them and the police in the effort to enforce sanitary measures. As a result, such measures were not thoroughly enforced."⁴⁸

C. Government's Response

Efforts to answer the need for more housing were scanty and class-biased. Rodwin notes the founding of the first Building and Loan Associations in 1855. Conceived as the "Workingman's Way to Wealth," these organizations were intended to provide loans at a slight interest rate to enable the middle class person to buy a home. The first attempts were abortive, however, due to the high risks, steep interest rates and fines and by 1866 all but 3 Massachusetts associations failed.⁴⁹

In 1851, the Back Bay fill-in project was begun, to eliminate the unsanitary drainage basin it had become for the population growing around it.⁵⁰ From the first, the area was planned as an upper-class residential area. To insure the nature of its settlers, Firey reports, the State offered the land for sale "at fixed minimum prices high enough to discourage cheap land uses and thus ensure upper-class occupancy." When aristocrats balked at the prospect of pioneering the newly-filled area, the state arranged to sell some of the property at lower prices to selected families, so as to establish the fashionability of the area. Soon the Back Bay rivaled Beacon Hill in exclusiveness.⁵¹

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A similar attempt at creating high-priced real estate failed in the South End area. Though "the distinctly preferred residential district of the city" between 1860 and 1870, Mayor Smith decided in 1855 to abandon the high prices initially asked by the city for this land. Instead it was sold at whatever price it would bring at auction, opening the way to a lower-class invasion which by 1885 had transformed it into a rooming-house area.⁵²

In 1852, the East Boston Ferry Company was chartered, placing new land for middle-class housing development within reach of the city.⁵³ The next year one of the city's first "model housing" corporations was incorporated, by a group of "well-to-do Bostonians."⁵⁴ This corporation set out to prove that a fair return could be expected on the construction of safe and clean apartments. It erected two 5 story brick buildings on Osborne Place. The buildings were clean, well-ventilated and spacious; apartments rented at \$2.00 through \$2.87 per week, with an annual return on the investment of 6%.⁵⁵

D. Reform Leadership and Action

According to Culver, the leaders of the tenement house reform effort between 1850 and 1868 were for the most part physicians. They received attention largely through the assignments they carried out for the city and state governments. The "Committee of Internal Health," for example, took charge of the city's battle against cholera outbreaks. Usually the Committee, or the city physician, would make recommendations following a crisis on how to avoid future ones. This was the case in 1849 when the Committee, composed of Dr. Henry G. Clark, City Physician, Dr. Charles E. Buckingham, John C. Dalton, and Henry W. Williams, produced the Report of 1849.⁵⁶ Similarly, in 1850 Lemuel Shattuck, a prominent statistician and former teacher, was appointed chairman of the Massachusetts Sanitary Commission. His report called for the creation of independent city and state boards of health and preventive health measures.⁵⁷

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very important document, as it contains the President's annual message to Congress, which is a key part of the executive branch's communication with the legislative branch.

2. The second part of the document is a report from the Secretary of the Interior, dated January 10, 1862. It contains information about the state of the Department of the Interior, including the status of the various bureaus and the progress of the work of the department.

3. The third part of the document is a report from the Secretary of the Treasury, dated January 17, 1862. It contains information about the state of the Department of the Treasury, including the status of the various bureaus and the progress of the work of the department.

4. The fourth part of the document is a report from the Secretary of the War, dated January 24, 1862. It contains information about the state of the Department of the War, including the status of the various bureaus and the progress of the work of the department.

5. The fifth part of the document is a report from the Secretary of the Navy, dated January 31, 1862. It contains information about the state of the Department of the Navy, including the status of the various bureaus and the progress of the work of the department.

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Other reformers included Dr. Henry T. Bowditch and Dr. Josiah Curtis, both "active sanitarians" who advocated assertion of stronger governmental responsibility for the preservation of the city's health. In addition, Culver cites the Benevolent Fraternity of Churches as a participant in the debate over governmental sanitary and housing reform.⁵⁸

In 1860, the Boston Sanitary Association was formed - Josiah Quincy, Jr., and Frederick Lincoln, Jr. were its officers, and Dr. Henry G. Clark, Dr. Edward Jarvis and Edward E. Hale, its directors. The Association was established as a vehicle for sanitary reform and in 1861 petitioned the Legislature for the creation of a State Board of Health and Vital Statistics. The petition, signed by Dr. Jarvis for the Association, appealed to the economic benefit in having healthy workers who would enhance the industrial power of the Commonwealth. Although approved by a Joint Special Committee of the General Court in 1861, the necessary legislation failed to pass.⁵⁹

The issue of social control was also raised in connection with housing reform. The Atlantic Monthly article referred to above (fn.55) contended that the "rapid growth of crime in our cities," as well as the rising mortality rate cannot be blamed entirely on the Irish immigrants. "This view is no doubt in part correct, but the larger share of the evils in our cities is due to causes unconnected in any necessary relation with the immigration--causes contemporaneous with it in their development, and brought into fuller action by it, rather than consequent upon it." The true cause of the problem, the article continued, was "carelessness or indifference in regard to the known and established laws of life." Specifically, the hardship suffered by the poor which leads them to desperation and disease are the result of (1) "the filthy and poisonous houses into which a large number of the people are crowded;" (2) "imperfect ventilation" caused by narrow streets, the absence of

yards, etc.; (3) the lack of "sufficient house and street drainage and sewerage."

To correct these deficiencies required government action:

"In spite of the jealousy (proper within certain limits) with which governmental interference with private property is regarded in this country, it is a manifest dereliction of duty on the part of our city authorities not to exercise a strict supervision over these homes." ⁶⁰

Boards of Health, in particular, need to be strengthened, the article continues.

In Massachusetts, the 1860 statute Ch. 26 authorizes removal of nuisances by the Board of Health, as well as necessary cleansing at the owner's expense. But the fines the law carries are too light to be of significant value as a deterrent.

Furthermore, the Board of Health as presently constituted cannot be expected to enforce the law "energetically," or "with a disregard for personal consequences."

Stiffer fines and regulation of construction as well as maintenance are required.

As far as the private sector is concerned, the article is enthusiastic about Boston's model housing experiment begun in 1853 on Osborne Place, already discussed above. ⁶¹

The most significant action on the part of the Boston authorities to improve the sanitary condition of the city in this period, however, was not in the area of health code enforcement or revision. Faced with a deteriorating health menace in the Fort Hill area, due to the build-up of the type of make-shift housing vividly described by Handlin, ⁶² the General Court was compelled to act. Here the mortality rate was higher than in any other sector of the city; in 1850 it was 5.65 per cent as compared to the 1.3 per cent in Beacon Hill and 1.9 per cent in the Back Bay. Solidly Irish, the area was undoubtedly looked upon with scorn by Boston's nativist officials who had witnessed the rapid transformation of this once fashionable area into the city's most notorious slum. ⁶³

In 1865, the General Court gave the city the power of eminent domain, which "the city made good use of...in dealing with Fort Hill." ⁶⁴ Authorized by the General

Court in the same year,⁶⁵ the project was temporarily halted in October by a State Supreme Court injunction, on a suit brought by Edward Dorgan.⁶⁶ In September of the following year, however, the injunction was removed by the Supreme Court, and work began soon after. The project caused severe hardship to the residents, according to the account by Charles Harris, Superintendent of Streets, because aside from the city-wide shortage of inexpensive housing, the Boston Gas Light Company had very recently "depopulated" a large area of the North End, another immigrant residential area. This experience "the exorbitant prices demanded for the poorest tenements," plus the fact that the harsh winter months were approaching, all frustrated the occupants of Fort Hill. "They besieged the Committee with petitions to delay the work until the winter months had passed," the Superintendent's report continues:

"The common instincts of humanity caused all people to feel deep sympathy for these poor people; but it was necessary that the work should go on, and they were gradually compelled to leave their houses. Some clung to their old homes till the roofs were taken off, and their rooms laid open to the sky."⁶⁷

The final cost of this project, which was not completed until 1872, was \$1 million. But "in return," as Koren points out, Boston had added 20 acres to its business area⁶⁸ and eliminated an unhealthy, unsightly testimonial to the failings of liberal capitalism.

E. The 1868 Tenement House Act

The demands for new legislation regulating the construction as well as the maintenance of buildings were finally embodied in the 1868 Tenement House Act, Chapter 281 of the General Court. Indeed, from this date onward, the regulations concerning fire prevention and sanitation were rarely the subject of separate acts. The danger from disease was as real as that from fire, and generally speaking, the two received equal attention, especially in the acts pertaining to tenements.

Chapter 281, state-wide in scope, contains the first statutory definition of a tenement house as follows:

"Every house, building, or portion therefore which is rented, leased, let or hired out to be occupied, or is occupied, as the house or residence of more than three families living independently of one another and doing their cooking on the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies, or some of them." 69

This definition of what type of dwelling constitutes a tenement house, as we shall see below, becomes a very important variable in the housing situation in Boston by the end of the century. Under this definition only dwellings with 4 or more families, or 3 or more per floor, were subject to the tenement-house standards. These requirements in 1868 applied to existing and to future construction, and included: bedroom ventilation by either a window or ventilation 3' square; fire escapes approved by the Board of Health; roofs and drains in good repair; a minimum of 1 water closet per 20 occupants; Board of Health permission before occupancy of cellars built after July 1, 1868; a minimum cellar ceiling height of 7'; owner or lessee to whitewash walls and ceilings of apartments at least twice a year; at least 10' of open space between 1-story buildings on the same lot; 15' open space between 2-story buildings; 25' between 3-story buildings; minimum 8' ceilings in all future construction; adequate water supply; cemented, water-tight cellar floors; and a fine of \$100 or prison up to 60 days for violations of the act, subject to Board of Health enforcement. 70

Enforcement of this potentially dramatic new law, however, was subject to the discretion of the city Board of Health. In Boston, Culver reports, the law had little effect because there were few alternatives to the violating housing; "given the choice--no housing versus bad housing--it was no wonder that the law was often nullified." The only solution meanwhile was to relax the legislative standards. 71

Lack of enforcement of the 1868 law, of course, drew criticism. In 1870 the Consulting Physicians of the City of Boston, advisors to the Board of Health,

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters. The text suggests that organizations should implement robust systems to track income, expenses, and assets, ensuring that all data is up-to-date and easily accessible.

2. The second section addresses the challenges of data management in a digital age. It highlights the risks associated with data breaches and the loss of sensitive information. To mitigate these risks, the document recommends the use of secure storage solutions and the implementation of strict access controls. It also stresses the importance of regular data backups and the use of encryption techniques to protect data from unauthorized access.

3. The third part of the document focuses on the role of technology in improving operational efficiency. It discusses how automation can streamline repetitive tasks, reduce human error, and free up resources for more strategic activities. The text mentions various software tools and platforms that can be used to manage workflows, collaborate with team members, and analyze data trends. It encourages organizations to embrace innovation and continuously seek ways to optimize their processes.

4. The final section discusses the importance of communication and collaboration in achieving organizational goals. It notes that effective communication is the foundation of any successful team, and that clear, concise messaging is crucial for ensuring that everyone is on the same page. The document suggests that organizations should foster a culture of open communication, where team members feel comfortable sharing their ideas and concerns. It also emphasizes the need for regular meetings and updates to keep everyone informed and engaged.

condemned the city's toleration of code violations and labelled the 1868 law " a dead letter."⁷² Three of them resigned from their position, calling Boston's tenement houses a "disgrace," and urging the creation of a full-time non-political Board of Health composed of public health experts. "In Boston alone," they charged," the interests of public health are made a branch of business of street cleaning."⁷³ Not until two years later, however, was the Board of Health power surrendered by the Aldermen, and an independent public health commission established.⁷⁴

Despite the passage of the 1868 Tenement House Act, Boston continued to suffer from a housing shortage, which frustrated attempts at code enforcement. Legislative standards, it appeared, were not enough. An 1866 Boston Herald editorial urged support from local philanthropists for model tenement houses. These would provide the "moral force" necessary to carry out a reform or building standard and induce landlords to accept a reasonable profit of 7 to 10% as in London's Peabody houses, instead of the usual 15 to 50% presently received for "dirty, ill-ventilated, incommodious tenement houses." The editorial cites an immediate need for 2000 cheap tenement apartments in the city.⁷⁵

The low-income housing problem within the city was not to be remedied by philanthropic efforts. An article appeared in the Boston Evening Transcript 34 years later in February 1900, condemning the high profits (15%) being made on unsanitary tenements in the North End, and calling for "investment philanthropy." "Housing reform," "the author concludes optimistically, "offers an attractive and remunerative field to capital with a conscience."⁷⁶

Apparently, the majority of such efforts as there were made to provide low cost housing for Boston in the latter part of the 19th century were not inspired by philanthropic motives; those who were so inspired, however, deserve to be recognized for their efforts.

IV. 19th Century Reformers: "Capitalists With A Conscience"

Beginning in the 1870's certain efforts were made to add to the housing supply of Boston area. Robert T. Paine describes several philanthropic building enterprises, notably the Boston Cooperative Building Company, established in 1871, which invested in 78 houses for 311 families; a Harrison Avenue building corporation which erected some three-family houses; and the Workingmen's Building Association, founded in 1888, which like Dr. Henry Bowditch's Boston Cooperative Building Company, built single and two-family houses in the outlying areas of the South End, Roxbury and Dorchester. Though successful in building homes for "mechanics" who could afford single family suburban homes, by 1902 Workingmen's Building Association had "not succeeded in building houses at a lower cost, to its great regret."⁷⁷ In all, Paine concluded, compared with private business speculators, the philanthropic enterprises had an insignificant influence on the housing market.⁷⁸

In 1879, Edward E. Hale proposed the formation of housing cooperatives, such as the 1875 Boston Cooperative Society, to build new towns and relieve urban congestion. The cooperative buys large tracts of land and sells shares in the corporation; individuals capable of paying \$3 per week could own their homes in 6 years plus some stock in the corporation.⁷⁹ Cooperative banks such as the Pioneer Bank (1872) described by Paine, were also established to promote home ownership; by 1902 there were 18 such banks in Boston. "A score of years ago it not an easy matter to obtain a "building loan," but cooperative banks have perfected the system of loans to builders upon houses 'in process of construction."⁸⁰

In 1893, the People's Building Association was founded by leaders of the Anti-tenement House League: William D. Bliss, Robert T. Paine and Arthur B. Ellis. Its purpose was to help poor laborers own homes in the suburbs by making a weekly payment

of \$2.25 to \$3.50 over a 15 to 21 year period.⁸¹ The Depression of the 1890's, however, prevented the development of this organization.⁸²

In spite of these private efforts to build inexpensive homes, mostly in the suburbs, they never succeeded in achieving their goals. As one newspaper analyst put it, in 1892, the problem was both financial and motivational; to be viable as a working-class area, land developed four or five miles outside the city had to be serviced by a 5-cent fare rapid transit system which would bring the worker to his job in the city by 7 a.m. This necessity presented a serious financial obstacle to developers. In addition, the article continues, residents of the inner city neighborhoods, such as the North End, are not as anxious to live outside the city as many persons believe. Before the philanthropic efforts can succeed in relocating urban slum dwellers, the article concludes, "it will be necessary to educate the occupants of the tenement houses to a liking for the freer and broader country life, where every man's home is his castle."⁸³

The philanthropic "capitalists with a conscience," therefore, suffered under severe handicaps to their best intentions, even in the suburbs where the land was cheaper. Meanwhile, the tenement house conditions in Boston continued under attack by reformers. In 1889, Dwight Porter was commissioned by the Associated Charities of Boston (organized in 1879 by Robert T. Paine to coordinate Boston philanthropy) to conduct a "sanitary inspection of certain tenement house districts of Boston." In his report, Porter criticized overcrowding, the result of the "modern tendency toward a concentration of life at large centers," aggravated among the Italians and Polish Jews, not always by force but "a matter of habit and choice."⁸⁴ He claimed "it is known" that density cannot healthily exceed 500 cubic feet of air space per occupant, and suggested these figures and 8' ceilings, should be mandatory in all tenements in the city. His survey reported that 1/3 of the tenements inspected had

less than 250 cu. ft. of air per occupant.⁸⁵ "Existing overcrowding can be lessened only gradually" he remarks, concerning the Board of Health's power to condemn overcrowded buildings; broad, discretionary power should be granted the Board of Health rather than arbitrary enforcement of "impracticable" laws.⁸⁶ A larger force of health inspectors, he concludes, is required.⁸⁷

Also in 1889 Benjamin Flower founded "the Arena," a nationally-oriented but Boston-based liberal magazine "with special emphasis on the liberal or progressive ideals or the new and more conventional thought of the day."⁸⁸ The editor conducted an extensive campaign against Boston's slums and later published the series of articles as a book, Civilization's Inferno, or, Studies in the Social Cellar.⁸⁹ In this work Flower criticizes the effects of the city's tax structure on its tenements. Under existing laws, the landlord was discouraged from improving his buildings because "he will have his taxes doubled or tripled for his pains." Instead he allows the building, with its "death-dealing atmosphere" to stand as it is, paying low taxes and enjoying "an enormous per cent on his investment" because the poor, of necessity, are compelled to pay him rent.⁹⁰ Flower called for an end to special legislative privileges, transportation monopolies, land speculation, and the "plutocracy" of American society.⁹¹

Legislative concern over Boston's housing conditions is evidenced by the ordering, in 1891, of the city's first "tenement house consensus." Conducted by the Massachusetts Bureau of Statistics of Labor and its chief, Horace G. Wadlin, the Report found that the "Concentrated District" of slums consisted of the South Cove, Wards 11 and 19 of the South End, Ward 12 in South Boston, Ward 16 and the North End. Wadlin recommended the strengthening of the Board of Health's powers to demolish condemned buildings, greater discretion over sanitary facilities, and more building

inspectors.⁹² At least one of the Bureau's recommendations was acted upon. An act passed on April 1, 1897, gave the Board of Health the power to order destroyed insanitary buildings. Until this Act, the Board of Health only had the power to vacate an insanitary building, but not to destroy it.⁹³

In 1896, E. R. Gould published an article originally published in the Yale Law Review entitled, "The Economics of Improved Housing."⁹⁴ The analysis addresses the question, "Does improved housing pay?" Using data from experiments in European and American cities, including Boston, he finds that the answer is yes; a "fair rate of return" of 4% has been demonstrated as feasible on model tenements. These clean, well-ventilated structures are better in the long run than the higher rate of return (6%) on the ordinary dwelling, because the former depreciate less. He makes it clear, however, that these profitable model tenements are for skilled laborers or "artisans," who are good wage earners and desirable tenants. These people should be encouraged to join the "proprietary class" by joining cooperative building associations and by utilizing the extension of rapid transit to the suburbs. As for the lazy, unskilled laborer, Gould continues, the example of Octavia Hill in London is the best solution. Rent collecting social workers like Miss Hill and semi-philanthropic model tenement houses are the answer. As for members of the lowest strata--drunkards, lazy, criminal and shiftless--Gould is cautious:

"Houses to them are shields against observation, refugees from pursuit and shelters for infamy... Such people would best be rounded up in public lodging houses where they could be constantly under public, if not police supervision. It is perfectly possible to do this indirectly, by the stringent enforcement of sanitary law."⁹⁵

In 1893, the 20th Century Club was founded by Edwin D. Mead, with John Fiske, Edward E. Hale and Robert Woods. Its purpose was to stimulate progressive housing reform in Boston.⁹⁶ In 1898 it hired Harold K. Estabrook to do a survey of Boston's slums. At this time Robert T. Paine was chairman, Prof. F. Spencer Baldwin,

secretary and other members included William I. Cole, Helena S. Dudley, Mary M. Kehew, Edwin D. Mead and Joseph C. Thorp.⁹⁷

The Estabrook report reviewed the activities of the Board of Health, lauding its increased power to vacate unfit buildings as of 1897, chap. 219, Mass. laws. He denounced the excessive profits of slum landlords, appealing to the "public conscience" for action to stop them from exploiting the poor.⁹⁸

The Boston Cooperative Building Company is cited as an example of realistic alternatives to the present slum conditions. Rents in company-owned buildings, he reports, are \$.72 to \$1.05 per room per week. By contrast, he notes, of 17 randomly selected families living in slums he investigated and found suitable for relocation under the law, only 5 of the families paid less than \$.75 per week per room.⁹⁹ Thus, better as well as cheaper housing can be made available to the present slum dweller.

In 1899 Edwin Mead, chairman of the 20th Century Club reviewed the progress made by the Board of Health in eliminating unsanitary tenements since the publication of Estabrook's report. Although officially ordering vacated 75 houses since that time, far less had actually been removed. The reason for the Board's inaction, Mead said, was fear:

"The Board seemed to fear that a radical exercise of its new (1897 vacating) powers might provoke such opposition as would threaten a repeal of the law. Of this we do not think there is the slightest danger; there is far greater danger that the officials may be behind the real demands of the people."¹⁰⁰

Aside from strict health code enforcement, Mead proposed the creation of a "Commission On the Homes of the People," composed of social scientists and reformers of the day. Their responsibility would be to oversee the removal of slums. Such a commission was, indeed, established by 1904 as the Mayor's tenement House Commission. Its members included Mead, Charles S. Hamlin, William D. Austin, Charles Logue, James T. Carroll, Nathan Waxman, and Edward H. Chandler, secretary.¹⁰¹

These comments are included as an appendix to the report.

Services began in 1961, and the first year was a success.

The Commission's Report of 1904 will be discussed below, in the context of the presentation of changes in the building and health codes which may have affected the supply of inexpensive housing in Boston toward the end of the 19th century.

V. Housing Regulation, 1868-1907

The framework for the analysis of housing legislation and ordinances passed in this period of extensive refinement of the law must for our purposes be constructed in terms of understanding each regulation's potential or intended effect on the construction of low-priced dwellings. Lacking data on the actual supply of housing we must rely on indirect sources of information, and inference, concerning the effects of different measures. We may only infer as to whether the consequences were intended or accidental. We shall, however, limit the analysis to rather major changes in the regulations which would appear to indicate general trends or directions in the housing policies of the time.

As we have stated earlier in this work the housing regulations passed prior to 1868 were chiefly concerned with the prevention of fire and more recently, the protection of health. These concerns were treated relatively independently until the 1868 Tenement House Act. With the introduction of special "tenement house" guidelines, however, the distinction between fire and disease prevention measures becomes less important. To be sure, separate health and building construction codes, as well as distinct agencies to enforce them, are maintained and expanded over time. But for the analysis of the effects of these regulations on the supply of lower-priced housing, we need no longer treat them as distinct.

The variables potentially affecting the supply of cheap housing become more numerous with the passage of the 1868 Tenement House Law. In addition to the definition of permissible building materials for different uses and zones,

(principally related to fire risks) and the rather general prohibition against the maintenance of buildings considered unsanitary or "nuisances" up to this time, other legal dimensions gain importance. Among the most significant are: the definition of the "tenement house;" restrictions on different sizes of buildings - the number of stories, height, or percentage of lot coverage allowed; the specification of wall thicknesses; the provisions made for light and ventilation; the establishment of a minimum number of sanitary facilities per number of occupants; and the powers of the government agencies - the Board of Health and the Buildings Department - to enforce the laws.

A. The Definition of a "Tenement House"

Before turning to the discussion of the changes in various codes and standards affecting housing construction in Boston during the period under review, it will be fruitful to outline briefly the changes in the definition of the tenement house in the laws and the importance of this variable. Common sense is all that is required to appreciate that housing laws passed which impose expensive requirements on the construction of "tenement houses," defined as houses for 4 families or more, but which do not apply to 3-family dwellings, should discourage construction of the former and favor construction of the latter.

The definition of a tenement house for the purposes of health code enforcement first appears in the 1868 Tenement House Act. There a tenement house is defined as a dwelling for four or more families (a family consisting of one or more persons maintaining an independent household), or where three or more families occupy the same floor. This definition becomes important because all the regulations contained in this act, and subsequent acts, applying to "tenement houses," are legally enforceable only to buildings which fit the definition. Thus, in 1868 the law, for

The first part of the paper discusses the importance of the study of the history of the English language. It is noted that the English language has a long and rich history, and that the study of its history is essential for a full understanding of the language. The second part of the paper discusses the importance of the study of the history of the English language. It is noted that the English language has a long and rich history, and that the study of its history is essential for a full understanding of the language.

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the first time in Boston's history, required all existing and future tenement houses to have air ventilation in each room, either directly, by a window, or indirectly, by a 3' square ventilator connecting a room to one with a window. Every such house was to have a fire escape, approved by the Board of Health; a minimum of one water-closet per 20 occupants; a roof in good repair; adequate drainage; the owner or lessee were required to whitewash the tenement at least twice a year; cellars must have ceilings at least 7' high; it was deemed unlawful to erect a tenement on the front of a lot where another occupies the rear, unless 10' of open space separates the buildings of 1-story each; or unless 15' separates them if 2-stories or unless 25' separates them if 3-stories. These as well as other provisions, served to define the living conditions acceptable for "tenement houses;" they did not apply to other buildings, including for example, 3-story, 3-family houses.

Even more important, from Robert Paine's point of view, was the definition of "family" as one or more persons. This definition "discriminates with unintended harshness," Paine wrote in 1902, "on just that class whose welfare ought especially to be studied. The very poor, the lone widow, the widower, the parent with single child," who have difficulty finding single room apartments except at high prices because of the short supply. Rather than require small buildings housing, for example, four separate women in one-story buildings, to conform "to all the expensive provisions of the tenement house code," a more appropriate definition must be found. Paine suggests that a "just and judicious" approach would be to define tenement houses in the law as having more than three tenements and containing more than twelve rooms.¹⁰²

The definition of a tenement house, then, can affect the supply of inexpensive housing in the city. Applications of the code to the construction plans

increases the cost, which is passed on to the prospective tenant in a short supply and higher rent for existing tenements.

The 1868 definition remained in effect for both building and health code purposes until 1885. Chapter 374, the Building Law of that year, retained the first part of the definition including houses with four or more families, but changed the second from "three or more families per floor" to "three or more above the second floor."¹⁰³ The Health Law, chapter 382, of this year also defined tenements in this way.¹⁰⁴ In 1889 both these acts were amended to change the definition so a house of "three or more" families living independently qualified as a tenement house and was subject to the code. Then, in 1892, the new Building Code returned to the 1885 definition of "four or more families or three or more above the second floor."¹⁰⁵

According to Rodwin, this change in the tenement law's application was followed by a 10% rise in housing prices in the city.¹⁰⁶ This definition remained in effect until 1907, when again the second part was changed, this time from "three or more families above the second floor" to "three or more above the first floor."¹⁰⁷

With the introduction of building classes in 1892, however, for building materials purposes the tenement house definition is less important. Attention thereafter is placed on determining which building, for example, will be first class construction. In 1892 buildings housing two or more families above the second floor were required to be first or second class; in 1895 this requirement was extended to all buildings housing two or more families, regardless of which floor. In 1897 all tenements were to be of first class construction, which applied under the existing tenement house definition, to houses for "four or more families or

three or more above the second floor."¹⁰⁸ Then, in 1900 the first class category was changed to include all houses with "two or more families above the second story."¹⁰⁹

Thus the development of the law indicates the importance attached to the tenement house definition, since it was changed quite regularly. Regardless of the building limits, which were primarily established for fire protection, in all the city of Boston by 1907 the tenement code was applicable to most multi-family housing. In 1904, the Mayor's Tenement House Commission recommended inclusion of three-family houses in the definition, contending that they share the same problem as houses for four or more families. This recommendation, however, did not succeed in gaining favor. It is interesting to note that among the members of the commission was Edwin D. Mead of the 20th Century Club.¹¹⁰

B. The Building Code

1. Specification of Building Materials

As we have seen, wooden buildings were limited to a maximum of 32' in height as of 1835, with the stipulation that buildings over 16' high would be no more than 25' by 50' in area and further that if these buildings over 16' were adjoining, that they would be separated by a 12' brick wall.¹¹¹ These requirements for wooden buildings within the city limits were not modified by the 1868 tenement house act, which pertained primarily to sanitation standards. References to construction with wood in the laws in before 1871 are made in terms of certain sectors of the city. Thus the South Boston - East Boston wood construction exemption, carried through most of the first half of the century, becomes discretionary in 1850 and under a May 16, 1850 ordinance wood buildings up to 32' high are permitted if an 8" brick wall intervenes between every 50' of continuous housing. In 1869

the legislature granted council discretion over wooden construction in the western, outlying city wards 13, 14 and 15¹¹² and in 1870 to the 16th ward of the city, Dorchester.¹¹³ Since this was the period when expansion into suburban areas for the middle class was begun¹¹⁴ it is clear that the legislature did not want central-city limitations on construction with wood to hamper the profitable and needed expansion toward outlying areas. There was no need, for example, to limit the area of a wooden house to 25' x 50' if it stood on a large lot; as long as it was 50' away from other dwellings there was little chance of fire spreading from house to house.

2. The Building Limits

In 1871 the Legislature authorized the establishment of "building limits" for Boston, within which all future construction of wooden buildings was prohibited. These limits encompassed the whole of the original part of the city, and represented a dramatic attempt to protect the city from the great fires which had recently devastated other large cities, notably Chicago and Toronto. This action, however, was not accompanied by the other much needed fire prevention measures such as adequate water pressure, fire-fighting equipment, etc., though urgently requested by fire officials.¹¹⁵ Lack of these essentials, plus the fact that until 1871 the city permitted high-density construction with wood in the downtown areas, contributed to the Great Fire of 1872 in which much of the commercial district of the town was destroyed.

Following the fire in December, 1872, the Legislature passed what Robert T. Paine described as a "stringent code."¹¹⁶ It required among other things, 12" thick brick external walls instead of 8" as provided in 1871, ch. 280, sec. 21, for dwellings in the city less than 35' high. For those greater than 35' but

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less than 55', the 1871 requirement of 12" brick walls in the 1st and the 2nd floor was changed to apply to all floors. The upper limit on fines for code violations was changed from \$500 to \$1000.

Since no wooden construction was permitted within the building limits as of 1871, attention increasingly turned to regulation of building materials outside the city's building limits. In 1876 allowance was made for 2-story, 25' high dwellings not over 20' by 40' in area outside the building limits to have brick adjoining walls of 8" thickness instead of 12".¹¹⁷

In 1885 the Department for the Inspection of Buildings in the City of Boston was established by legislative statute and wall thicknesses for brick buildings of various heights were specified. The 8" thick allowance for smaller buildings was changed slightly to include dwellings less than 30' high. Thicker walls were required for taller buildings; the building inspector was granted discretion over wall requirements for buildings greater than 100'. Also in this year the City Council limited wooden dwellings outside the building limits to 45' high, but if 50' from any other building or street, no height limitation was imposed. A minimum of 3' of space was to separate wooden buildings sharing the same lot.¹¹⁸

3. Building Classes

"Building classes" for the city of Boston were established in 1892.¹¹⁹ "First class" construction was "fireproof throughout;" "second class" consisted of brick external and party walls; and "third class" was a building neither first nor second class--in effect, of wood. This change in the form of the law made restrictions on materials more prescriptive in nature, perhaps leading to more efficient interpretation of the law. Thus, buildings constructed in the future over 70' high, and hotels with 50 rooms or more above the 1st floor, were to be of "1st class construction." The maximum building height in the city was set

at 125', but in no case was a building to exceed 2-1/2 times the width of the widest street it occupied, measured from the face of the building to the street line on the other side. This method of measuring the street width elicited strong protests from reformers; we will return to this problem below.

Under the 1892 law, all buildings erected in the future in Boston and occupied by more than 1-family above the 2nd story were required to be either 1st or 2nd class; those used as lodging, tenement, or dwelling houses of 5 or more stories were to have basements and first stories of 1st class (fireproof) construction. In 1894, this last requirement was extended to all dwellings 65' in height above the¹²⁰ cellar.

Then, in 1895, the law was made even more stringent, calling for 1st or 2nd class construction (prohibiting wood) in all buildings constructed in the future where two or more families lived. Two years hence all tenements in the city were required to be of 1st class construction.¹²¹ This most restrictive prohibition of wooden dwellings in the city remained in effect only three years. In 1900 the law was changed to require 1st class construction in buildings housing two or more families above the second story. If plastered completely on the inside, partially wood structures were allowed, not more than 4 stories, or 50' high, or with two or more families above the 2nd story.¹²²

In 1902 Robert Woods criticized the prohibitive expense incurred by 1st class construction requirements for tenements. He claimed the laws were excessively concerned with fire prevention and suggested that more attention should be paid to the enforcement of light and ventilation standards.¹²³ Amid these mounting criticisms of the effects of the existing building laws on the housing supply, the Legislature in 1907 moved to allow the construction of tenements (for 4 or more families or three or more above the 1st floor) outside the building limits up to three stories or 45' in height.

C. The Health Code

Among the important reforms brought about with the 1868 tenement House Act were health standards applying both to existing and to future multi-family dwellings. As ~~already~~¹²⁵ mentioned in our discussion of the changing definition of "tenement house" under the law, the 1868 act was unprecedented in the detail with which health standards were specified.

At the time of the passage of the act, the City Board of Health, (still under Aldermanic control at this time) had the power: to vacate buildings it deemed a nuisance or as unfit for dwelling;¹²⁶ to require, at the landlord's expense, a number of privies in a tenement proportional to the number of occupants;¹²⁷ to remove tenements in "overcrowded" dwellings.¹²⁸ As of 1868 the city Board was empowered to require of all tenements: ventilation in all sleeping areas; fire escapes in each tenement; a minimum of 1 water closet per 20 occupants; 7" ceilings in all cellars (defined as having 50% or more of the wall height below the street level); and Board approval for occupancy of all cellars built thereafter; biannual whitewashing of all walls and ceilings; 8' ceilings in all rooms of tenements thereafter constructed, and minimum open spaces between houses of varying heights.

This law remained the basis of laws passed relating to the city's living conditions for the remainder of the century. In time, amendments further specified the code. In 1871 the law restricted building heights on streets 20' wide to 30' in an attempt to ensure more adequate light and less density on some of Boston's crowded, narrow streets.¹²⁹

1. The Board of Health: Political Reform

As indicated earlier in this report, sanitation and health reformers had criticized the enforcement practices of the city Aldermen-controlled Board of Health at least as early as 1860. This issue became acute with the death of a Brighton butcher from meat poisoning and a smallpox epidemic in the summer of 1872.¹³⁰ Following these events, the Board of Health was made semi-independent of the Aldermen,¹³¹ but still under their control. Another cholera epidemic the next year, with 738 deaths reported,¹³² led the way for a thorough health reform by Mayor Gaston and the creation of the city's first independent Board of Health.¹³² The State Board of Health was apparently created in 1869, since its 1st annual report was in 1870 (it condemned the city's Fort Hill project as exacerbating the housing shortage).¹³³ So far as could be determined, however, the city Board was not under the control of the State Board.

2. The 1871 Buildings Act

The 1871 Buildings Act (chap. 280) contained sufficient standards to insure that in the future tenement houses in the city of Boston would be of improved construction, assuming the law was enforced. Indeed, by 1873, Culver notes, a general "improvement" of tenement conditions was reported, especially due to the April, 1873 inspection of the city's tenements by the newly-independent Board of Health: "Because influence peddling was now unavailable, the July 14, 1873 Boston Daily Advertiser reported more tenement owners complying with the law."¹³⁴

In 1874, 172 tenements were vacated, according to the Board of Health's Annual Report.¹³⁵ To analyze the actual extent, of the code violations as compared with the instances of enforcement, however, would require more data than this researcher, or Culver, is able to provide. Thus Culver states he is using the officially registered tenements in arriving at his estimation of the number of

tenements (2,789) inspected by the new Board of Health and admits that the actual number of tenements in the city may be higher.¹³⁶

A similar problem is confronted in the analysis of changes in the Building and tenement house laws themselves. The extent of the enforcement of the statutes and ordinances passed for the remainder of the 19th century remains an open question and one that would require extensive future research.

As to the actual changes in the health code since 1868, the direction is clear. Cellar occupancy in the city was prohibited in 1885, chap. 382 except in presently occupied cellars with 7' ceilings.¹³⁷ In 1889 the Board of Health was given the power to construct sewers where needed and all buildings on streets with a sewer were required to be equipped with the appropriate number of water closets connected to it. Further, the Board was instructed to inspect all tenements twice a year and to use the city police to enforce the code if necessary. Building superintendents were also required to reside in 9-or-more-family tenements where the landlord does not reside.¹³⁸

The Board of Health's powers were broadened even more in 1897 when, for the first time, it was authorized to order buildings demolished for health reasons. Prior to this time, it could vacate such buildings but not destroy them. Baldwin credits Mayor Quincy with this enlargement of the Board's powers.¹³⁹

In 1892, another important variable in the health-code percentage of lot covered by the building was introduced.¹⁴⁰ The law allowed 75% of the lot to be occupied, but allowed lot measurement to begin midway on the street before the lot. Thus, as Paine pointed out in 1902, the law permitted construction of a building covering the whole of a lot sixty feet deep on a forty-foot street.¹⁴¹ When, in 1844, a "model tenement" was constructed four stories high and leaving only a two foot wide open space on part of the 42' by 101' lot, it was questioned "whether

these vast tenement houses ...were not far worse in many essentials for the health and welfare of their occupants than the little old houses, often built of wood, which they replaced." ¹⁴² The 1895 law was therefore changed to limit the area covered to 65% and further to require an open space per lot "equal in depth to half the width of the street and extending the width of the building."¹⁴³

These attempts at providing ventilation and light for crowded city tenements were, from the landowners point of view, uneconomical usages of expensive urban land and undoubtedly tended to discourage tenement construction and to encourage urbanization to the extent that the law was followed. While we have no direct evidence of this effect, a similar situation is documented in the case of fireproofing requirements which called for all brick tenements within the city. The law of 1897, chap. 413, Paine notes, which required tenements in the city to be "1st class," resulted in a virtual cessation of moderately priced tenement construction. "Subsequent investigation showed," writes Paine, "that after existing permits had been exhausted, few, if any tenement houses were built with tenements renting at \$16 a month or less. Chapter 321, 1900 relaxed the restrictions for tenement houses up to four stories or 50' high, but these were limited to two families above the second story. Paine also considered this proviso unnecessarily restrictive." ¹⁴⁴

4. Suburban Exemptions

Indications are that the real solution to Boston's housing shortage toward the end of the century was being sought in the development of suburban residential areas and by annexation. The statutes passed during this period reflect an obvious desire on the part of legislators to facilitate suburban expansion. Following the 1868 Tenement House Act, the General Court granted the Boston City Council discretionary power over the construction of wooden buildings in outlying wards. In

1869 wards 13, 14 and 15, comprising roughly the "Highlands" area west and south of the city, were given this special status earlier afforded South and East Boston.¹⁴⁵ In 1870, newly-annexed Dorchester (ward 16) was also added to the discretionary category.¹⁴⁶ In the following year however, with the establishment of the city's "building limits," these special exemptions were repealed.¹⁴⁷ Thereafter, construction with wood in these areas became subject to the more formalized guidelines discussed above, which generally permitted wood dwellings no more than three stories. The many "triple-deckers," so typical of Boston's expansion, were built under this provision.

VI. 1907-1924: The Emergence of Zoning

Chapter 550 of the laws of 1907 embodied many of the recommendations made by the many housing reformers at the turn of the century. The Board of Health in particular, was given broader powers of health code enforcement such as discretion over the number of privies it considered acceptable for a given number of occupants.¹⁴⁸ This measure, it will be recalled, was suggested by the Boston Society of Architects in 1907. The Act limited the height of all buildings within the city to 2 1/2 times the street width, with a 125' maximum. It continued the city's power to establish building limits, and allowed the construction of wooden tenement houses no more than 3 stories. A tenement house was defined as a dwelling of four or more families or more than two families above the first story. It required fire escapes in all tenements as well as detailed provisions for courtyards in tenements of various heights. The building commissioner, established in this act, was given equal powers of nuisance abatement or removal as the Board of Health and all buildings were to be approved by the Commissioner of Buildings before construction could begin. The Board of Health retained its power to restrict the number of occupants per dwelling.

Housing reformers, however, were far from satisfied with this latest response to Boston's housing problems. The Economic Club of Boston, for example, using data from the 1905 census, condemned the city government's tolerance of gross inequities in the distribution of population throughout the city. It found in Wards 6 and 8 a density of 427 persons per acre, as compared with 24 per acre city-wide. 20,000 of the city's population, living in these areas lived in dwellings with less than 400 cubic feet of air space per person, "the lowest standard fixed as the minimum by any city in the United States or Europe which has undertaken to establish a minimum."¹⁴⁹

Aside from indicting the Board of Health for neglecting to enforce the housing code, the committee calls for cooperative building associations to allow suburban residence for workers, improved suburban transit lines and more rational control over the city's growth to avoid the midstake of continuing to allow immigrants to concentrate in unsafe numbers in the central city wards:

"The present haphazard system of intermingling dwellings, factories, stores, offices and other buildings in hopeless confusion must give way to a system of town planning on scientific lines. These include the defining of zones in which buildings of specified character and height can alone be erected."¹⁵⁰

This recommendation indicates the transition which current thinking about Boston's housing problems was undergoing at the time. Increasingly reformers began to call for a more comprehensive approach to housing and a stronger role of government in its provision. The Economic Club's report did not advise direct government involvement, however, in housing construction; the fear of an adverse affect on the private competitors remained strong. Tax incentives to private developers, as well as a role in planning the city's growth are suggested in the report as proper government spheres.¹⁵¹

B. The Massachusetts Homestead Commission

Chapter 607, 1911, the "Act to provide for establishing with the assistance of the Commonwealth homesteads for workingmen in the cities and towns," embodied the spirit of the Economic Club's report.

This act created the Homestead Commission, which was instructed to study and to present to the Legislature a plan by which mechanics, factory workers, and laborers could be assisted in the purchase of small house and plots of land in the suburbs.¹⁵² The Commission recommended the establishment of city planning boards, which resulted in Boston's first Board by ordinance on January 27, 1914, under authority of Chapter 494, 1913. The Homestead Commission undertook, in 1917, the Lowell Homestead Project. An experiment for which the Legislature allocated \$50,000, the project involved the sale of 50 homesteads at small down payments and monthly payments of \$15.¹⁵³ The Legislature demonstrated reluctance to appropriate the funds requested by the Commission to carry on the project, however, and as far as could be determined only 12 houses were actually completed.¹⁵⁴ In 1919 the Homestead Commission was absorbed by the newly created Department of Public Welfare.¹⁵⁵

With the creation of the Homestead Commission, Massachusetts became one of the first states in the nation to recognize that, in the Commission's words, "in no country has private enterprise been equal to the task of properly housing the inhabitants."¹⁵⁶

The failure of the Legislature to sustain the Commission's work beyond the Lowell experiment reflects the great reluctance on the part of government to interfere directly in the housing market. Initially, the Commission shared this belief that it was not wise to interfere with the private market; by 1919, however, it

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began to raise the question as to whether the time had come to recognize "the absolute failure of private capital to meet the demand."¹⁵⁷ More acceptable to legislation than direct interference was a regulatory role. One of the first actions of the Homestead Commission was to recommend legislation (Chap.494, 1913) providing for the creation of planning boards in cities and towns with populations greater than ten thousand. These boards would study the housing conditions and "make plans for the development of the municipality with special reference to the proper housing of its people."¹⁵⁸ In accordance with this act, Boston's City Planning Board was established by ordinance in 1913.¹⁵⁹

C. State-Wide Housing Laws

Other legislation in this period reflects the increasing assertion of government's role in housing. The "Tenement House Act for Towns," Chap.635, was passed in 1912,¹⁶⁰ and a similar, but more restrictive "Tenement House Act for Cities" followed in 1913.¹⁶¹ Neither of these acts applied to Boston and both were subject to ratification by the locality. These were the target of severe criticism by Charles Killiam, a professional planner, who charged they represented "the extreme housing reformer's point of view."¹⁶² Of 320 towns in 1913, Killiam notes, only 14 had adopted the law; and no city had accepted the city law after six months, when the Killiam article appeared. Only towns which desired to prohibit the wooden triple-decker, excluded by the town law, would adopt it and, Killiam adds, "towns which shut out all cheap housing have not settled the housing question."¹⁶³ A more satisfactory, uniform state housing code is required, he concludes. As a member of the Governor's Commission investigating the state's building regulations, Killiam promises a more realistic model code which does not "drive people to cheaper land in the outlying areas" yet protects the municipal

residents. A similar criticism of the restrictive nature of the tenement house act for towns and its potential for driving the middle class to the suburbs appears in an article in the Boston Evening Transcript, April 5, 1913.

Debate over a state uniform housing code bill, House 1750, 1916, ensued for several months. So far as could be determined, the proposal was rejected at least during the period covered. Since it did not apply specifically to Boston in any case, the eventual outcome of this particular reform effort was not pursued.

Also in 1919, Mayor Peter's Committee on Housing proposed adoption of a "housing law" distinct from a "building law" which would make appropriate allowances for the construction of different types of housing: single family, two-family, multiple permanent (tenement houses), multiple transient (hotels, lodging houses). The committee criticized the laxity of existing health and building code enforcement, and the advantage afforded to code violators by lengthy court delays. Regarding the wooden triple-decker, the committee recognized its advantages as a low-rent multiple dwelling. Its potential benefits, however, were offset by the fire hazard, the cheap construction and rapid, unsightly depreciation associated with it. It, therefore, recommended the wooden triple-decker tenement be banned completely from the city and second class (semi-fireproof) structures be allowed. The committee's recommendations were submitted to the Legislature as a petition by "Charles Logue and others." It became House 1308 and was rejected on July 17, 1919.¹⁶⁴

D. Further Changes in Boston's Housing Laws

While debate over a state housing code ensued, several changes in the Boston Housing regulations were passed by the Legislature. In 1914, Chap.550, 1914, was amended so as to allow the construction of two-family wooden homes outside the

building limits of Boston. These houses were confined to a maximum of 60% coverage of the lot. The definition of the City's building classes was also changed. All buildings over 75 feet in height, and all tenement houses over five stories or 3500 square feet in area were required to be of first-class (fireproof) construction. Buildings over four stories were required to have fireproof basements and first stories. ¹⁶⁵

In 1919 the Building Inspector was empowered to order removed any buildings in violation of the building code. This increased power, until then restricted to violations of the health code, reflected the Legislature's desire to facilitate building code enforcement.

In 1921 the Legislature changed the first-class building materials requirement for structures of 3500 square feet in area to apply instead only to those of 5000 square feet in area, a relaxation of the 1914 Chap.782 amendment. ¹⁶⁶ In the act of the following year the law was again amended to allow wooden three-story tenements outside the building limits. ¹⁶⁷

These acts indicate a growing realization among the legislators that attempts at restriction during the critical post-war housing shortage were inappropriate. This shortage, according to records of special Boston Chamber of Commerce hearings on the subject, was caused by the rise of building costs (which increased by 100% between 1915 and 1920, according to the City Planning Board's estimates) and the withdrawal of private capital from housing construction, caused by the war. The increased building costs, the report continues, are the result largely of the rising costs of labor, through the influence of unions. Recommended is a stronger government role in the labor/management relations, presumably to control labor costs. ¹⁶⁸

E. Boston's Zoning Law

Passage of the 1924 Zoning Law for the City of Boston, in the context of the issues arising at the time, appears somewhat undramatic. Indeed, this act represents only the beginning of the city government's involvement in planning on a rationalized, formal scale. The law, Chap. 433, was to divide the city into districts for the regulation of "the use of buildings and premises, in height and bulk and the occupancy of lots" therein. Six "use districts" were established--single residence, general residence, local business, general business, industrial, and unrestricted zones. In addition, five "bulk districts" were established: 35', 40', 65', 80' and 155' districts. The City Planning Board was responsible for defining the Zoning Map, the building commissioner was given discretionary power over allowing non-conformity with the established zones.

Lacking information on the implementation of the act, this researcher can provide little comment on its significance. Rodwin reports that one effect was to check the growth of the three-decker, although by this time it had declined in popularity; due to rising costs it ceased to be the "poor man's bargain."¹⁶⁹ In any event, the effects of the law would be very long-term since it applied to future building development in the city, not existing housing conditions. We might expect that it served to protect residential areas from commercial-industrial encroachment, as well as preventing the denial of sunlight to small houses by larger structures. Thus, to the extent that it succeeded, this act may have provided a measure of stability to Boston's neighborhoods.

Aside from its eventual effects on Boston's housing conditions, the zoning law is important because it embodies both a continuation of previous building laws while, at the same time, signifying a qualitative change in the accepted approach to the city's housing problems. It is to the meaning of this change, in the context of the historical developments presented above, that we will now turn in our conclusion.

VII CONCLUSION

Boston's zoning law of 1924 represents a significant change in the posture of government toward Boston's urbanization process. With the establishment of a comprehensive design for the future character of the city's growth, and the administrative apparatus to effect this plan, the city became a part of the "Euclidean zoning movement" which arose nationally in the early 20th century. The City Planning Board, in effect, was empowered in 1924 to supervise and to control urbanization in a rational manner calculated to maximize the uses of the city's land to the benefit of the entire community.

Whether this potential was in fact realized in practice is, of course, an unanswered question. Our concern here is and has been with the manifest character of the laws. Compared, therefore, with the laws passed during the 19th century for the protection of the city from fire and from disease and squalor, the 1924 law is impressive because it, in effect, was designed to protect the city from itself. That is, the law synthesized many of the various measures of the past which had arisen in response to neglected conditions, such as high-density wood construction or inadequate sanitary facilities for overcrowded tenements, and assorted government's responsibility to affect the city's growth in such a way that would help to avoid their recurrence. The ecological forces of invasion, competition, and succession in urban areas according to the private market and the whims of the speculator were to be replaced by the controlled growth associated with rational planning.

The history of housing reform in Boston during the 19th century may be described as haphazard and inadequate to the needs of the working people. Indeed, with the exception of the Homestead Commission's Lowell Housing Project, the first hundred years of the City of Boston's history offer no evidence of government capacity or desire to

initiate housing policy except under extreme pressures from critics and circumstance. Decline of the prevailing laissez-faire philosophy toward the housing market parallels the gradual and uneven increase in restrictive housing legislation. While the 1924 zoning law by no means carried the government into direct involvement in the provision of needed housing, it established the framework from which such a policy of concern might develop.

Appendix: Suggested Future Research

To complete the task of the present research, the following areas would appear to merit exploration:

1. Comparison of Boston's building and health laws with those of the surrounding communities during the period covered; determination of the extent to which the low-income housing supply was controlled by these communities.
2. Investigation of the actual supply of housing, for different income levels, in the City of Boston; effect of the Board of Health on this supply through condemnation and demolition of insanitary dwellings.
3. Further development of the political nature of housing reform, especially the controversy over the Board of Health powers or the Aldermen prior to 1873.
4. Use of maps to determine the areas affected by the "building limits" of the 19th century and the zoning districts of the 20th century.
5. Perhaps an intensive search of periodicals at the time of key legislation regarding housing (i.e., 1868, 1871, 1889, 1892, 1897, 1907, 1912, 1913, 1924) to ascertain the particular interests responsible for those acts and their motives; also the effect of the acts on housing supply and conditions--the extent of enforcement. This area may be quite crucial to the research yet it also is an extremely difficult and time-consuming enterprise.
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2. The second part of the report is a detailed description of the methods used.

3. The third part of the report is a discussion of the results obtained.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a summary of the work done.

6. The sixth part of the report is a list of the names of the people who helped.

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